THE HONOURABLE SRI JUSTICE G. CHANDRAIAH

W.P. No.23296 of 1999

ORDER:

This writ petition has been filed by the petitioner seeking Writ of *Mandamus* directing the respondents to fix up his monthly pension in accordance with the scales to which he is entitled to on the date of his retirement as per the Revised Pay Scale orders of the 2nd respondent – Vice Chancellor, Andhra University, vide proceedings No.S.III(2)/589/94 dated 16-06-1994 with effect from the date of his original appointment i.e., 16-05-1966 and further to direct the respondents to pay the difference of basic scales of pay between the cadres of Gas Mechanic and Mechanic with effect from 16-05-1966 with subsequent increments accruing thereon and with interest treating him as promoted forthwith from
16-05-1981 and consequently declare the action of the respondents in not placing him in the pay scale of Mechanic with effect from 16-05-1966 and not promoting him as Foreman with effect from 16-05-1981 while promoting his juniors as illegal, arbitrary, discriminatory, contrary to Article 14 of the Constitution of India and the principles of natural justice.

It is the case of the petitioner that originally he was appointed as Gas Mechanic, Technical Category, in the Department of Nuclear Physics, Andhra University on 16-05-1966 and retired from service on attaining superannuation on
30-04-1998 after rendering a continuous service for a period of 32 years. His case is that he is entitled to full amount of monthly pension as per the proceedings No.S.III(2)/589/94 dated
16-06-1994 of the 2nd respondent, which are based on the recommendations dated 16-02-1994 of the committee constituted to

examine the representations of certain technical staff members for determining the channel of promotion to the technical staff by way of which his appointment as Gas Mechanic was treated as that of Mechanic. It is stated that the benefits accruing out of such promotion by way of reclassification and merger of post were not made fully applicable to him, which resulted in reduction of his monthly pension contrary to the Revised Pay Scales, 1993.

Despite the eligibility of the petitioner for the post of Foreman,
he was not promoted to the said post but his juniors were promoted for the same, thereby he has been deprived of his scale in the category of Mechanic and subsequent promotions.

Further grievance of the petitioner is that he made several representations dated 29-07-1995, 20-01-1997, 29-01-1995 and 22-01-1997 to consider his case for promotion as Foreman in order to protect his seniority and pensionery benefits. As no orders have been passed on the said representations, the petitioner got issued legal notice dated 29-07-1998 demanding to pay the balance amount due to him towards his retirement benefits by fixing his salary as that of a Mechanic from the date of employment to the date of proceedings dated 16-06-1994 and to fix his salary as that of a Foreman from 16-06-1994 to the date of his retirement and pay the arrears and to see that his pension is also fixed as per the scale he is entitled to on the date of his retirement.

It is submitted that the respondents gave a vague and evasive reply on 05-09-1998. The petitioner accepted his retirement benefits by way of protest letter dated 25-06-1998 and in view of the same, he was retired from service.

Further grievance of the petitioner is that though initially he was appointed as Gas Mechanic as there were no rules with regard to the

regular promotion channel and subsequently the authorities have taken a decision to have promotion channel, consequent to which the petitioner was promoted to the post of Mechanic but he has not been granted sanctioned scale of pay, thereby he was also not promoted to further post i.e., Foreman.

The petitioner was already retired from service. He seems to have made several representations before his retirement claiming benefits as per his eligibility. It appears that the respondents gave a reply dated 05-09-1998 to the petitioner stating that he was appointed as Gas Mechanic in the year 1966 in the Department of Nuclear Physics, Andhra University but denied the allegation that he is entitled to the pay scales of Mechanic and not that of
Gas Mechanic right from the date of his appointment. It is also denied that he is entitled to the scales of pay of Mechanic right from 16-06-1994. It is stated that the petitioner's pay was fixed as per the Government Orders issued from time to time and adopted by the University and no injustice was done to the petitioner at any point of time. It is also stated that unless a person is promoted as a Senior Mechanic in the first instance and completes the required period of service, he cannot be promoted as a Foreman.
It is also denied that his junior was promoted while the petitioner was not given the chance of promotion to the post of Foreman.
In view of the reply dated 05-09-1998, there is no material to say that the petitioner has suffered any injustice in the hands of the respondents. However, with reference to the various allegations made by the petitioner in the affidavit filed in support of the petition, no detailed counter has been filed by the respondents denying the allegations made by the petitioner. In the absence of the same, it is not proper for this Court to adjudicate the matter on merits.

Having regard to the averments made in the writ petition and also in view of the submissions made by the learned standing for the respondents and the fact that the petitioner had already been retired from service, still if the petitioner has any grievance,

he may approach the University by making a representation,

in such an event, the respondents are directed to consider and dispose of the same, in accordance with law, expeditiously, preferably within a period of two months from the date of such representation. No order as to costs.

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JUSTICE G. CHANDRAIAH

Date: 12-07-2006
LSK